

Message Text

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ORIGIN L-03

INFO OCT-01 AF-08 ARA-10 EA-09 EUR-12 NEA-10 IO-13 CIAE-00

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SP-02 SS-15 USIA-15 MC-02 ACDA-10 AID-05 IGA-02 OMB-01

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NEA/RA - COL. HOBBS

EUR/RPM - MR. REHFELD

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FM SECSTATE WASHDC

TO AMEMBASSY ADDIS ABABA

AMEMBASSY BANGKOK

AMEMBASSY CARACAS

AMEMBASSY COLOMBO

AMEMBASSY HELSINKI

AMEMBASSY KABUL

AMEMBASSY KATHMANDU

AMEMBASSY KUALA LUMPUR

AMEMBASSY LA PAZ

AMEMBASSY MANILA

AMEMBASSY MEXICO

AMEMBASSY NAIROBI

AMEMBASSY SEOUL

AMEMBASSY VIENNA

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USDOCOSOUTH

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TAGS:MASS, VE, BL, MX, TH, MY, RP, KS, CE, AF, NP, ET, KE,

SUBJECT: IMPLEMENTATION OF NEW STATUTORY CONDITION OF
ELIGIBILITY FOR MILITARY ASSISTANCE AND TRAINING

FOR ALL ADDRESSEES:

1. RECENTLY ENACTED INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976 AMENDS SECTION 505(A) OF FAA, CONCERNING CONDITIONS OF MAP ELIGIBILITY, SO AS TO MAKE EXISTING LIMITATIONS ON USE AND TRANSFER OF USG-FURNISHED DEFENSE ARTICLES APPLICABLE AS WELL TO QUOTE RELATED TRAINING AND OTHER DEFENSE SERVICES UNQUOTE. THIS NEW PROVISION, EFFECTIVE JULY 1, 1976, (SEE TEXT PARA 2, BELOW) REQUIRES THAT WE OBTAIN AGREEMENT FROM EACH RECIPIENT OF GRANT TRAINING AND OTHER DEFENSE SERVICES RELATED TO FURNISHING OF MAP OR FMS DEFENSE ARTICLES TO EFFECT THAT RECIPIENT WILL, INTER ALIA, USE SUCH TRAINING AND SERVICES ONLY FOR PURPOSES FOR WHICH FURNISHED, WILL MAINTAIN SECURITY OF SUCH TRAINING AND SERVICES, AND WILL NOT TRANSFER SUCH TRAINING OR SERVICES TO THIRD PARTIES WITHOUT PRIOR USG CONSENT.

2. TEXT OF AMENDED SECTION 505(A) READS AS FOLLOWS: QUOTE:

(A) IN ADDITION TO SUCH OTHER PROVISIONS AS THE PRESIDENT MAY REQUIRE, NO DEFENSE ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE SHALL BE FURNISHED TO ANY COUNTRY ON A GRANT BASIS UNLESS IT SHALL HAVE AGREED THAT --

--- (1) IT WILL NOT, WITHOUT THE CONSENT OF THE PRESIDENT --

--- (A) PERMIT ANY USE OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY,

--- (B) TRANSFER, OR PERMIT ANY OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY TO TRANSFER SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY GIFT, SALE, OR OTHERWISE, OR

--- (C) USE OR PERMIT THE USE OF SUCH ARTICLES OR UNCLASSIFIED

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RELATED TRAINING OR OTHER DEFENSE SERVICE FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED;

--- (2) IT WILL MAINTAIN THE SECURITY OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE AND WILL PROVIDE SUBSTANTIALLY THE SAME DEGREE OF SECURITY PROTECTION AFFORDED TO SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE BY THE UNITED STATES GOVERNMENT;

--- (3) IT WILL, AS THE PRESIDENT MAY REQUIRE, PERMIT CONTINUOUS OBSERVATION AND REVIEW BY, AND FURNISH NECESSARY INFORMATION TO, REPRESENTATIVES OF THE UNITED STATES GOVERNMENT WITH REGARD TO THE USE OF SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE; AND

--- (4) UNLESS THE PRESIDENT CONSENTS TO OTHER DISPOSITION IT WILL RETURN TO THE UNITED STATES GOVERNMENT FOR SUCH USE OR DISPOSITION AS THE PRESIDENT CONSIDERS IN THE BEST INTERESTS OF THE UNITED STATES, SUCH ARTICLES OR RELATED TRAINING OR OTHER DEFENSE SERVICE WHICH ARE NO LONGER NEEDED FOR THE PURPOSES FOR WHICH FURNISHED. END QUOTE.

3. ADDRESSEES SHOULD NOTE FOLLOWING ABOUT THIS NEW REQUIREMENT:

A. IT IS A CONDITION OF ELIGIBILITY FOR THE FURNISHING ON A GRANT BASIS OF FURTHER MAP MATERIEL AND SERVICES, OR FURTHER TRAINING RELATED TO THE USE OF MAP OR FMS ORIGIN MATERIEL OR SERVICES UNDER THE NEW INTERNATIONAL MILITARY EDUCATION AND TRAINING CHAPTER OF THE FAA. IT DOES NOT AFFECT ELIGIBILITY FOR PURCHASE OF DEFENSE ARTICLES AND DEFENSE SERVICES UNDER FMS. (A SIMILAR NEW STATUTORY REQUIREMENT FOR FMS ELIGIBILITY WILL BE IMPLEMENTED

SEPARATELY THROUGH AN AMENDMENT TO THE STANDARD FORM FMS CONTRACT.)

B. IT REQUIRES AGREEMENT OF RECIPIENT TO OBSERVE ABOVE-DESCRIBED CONDITIONS WITH RESPECT TO TRAINING OR SERVICES RELATED TO U.S. FURNISHED ARTICLES, NO MATTER WHEN SUCH ARTICLES, TRAINING, OR SERVICES WERE FURNISHED.

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C. AS A CONDITION OF ELIGIBILITY, THIS NEW STATUTORY REQUIREMENT WILL PRECLUDE THE USE OF APPROPRIATED FUNDS UNTIL THE REQUISITE AGREEMENT IS OBTAINED FOR NEW GRANTS OR MATERIEL AND SERVICES AND NEW EQUIPMENT RELATED TRAINING STARTS FOR COUNTRIES WITH WHICH EXISTING AGREEMENTS DO NOT MEET NEW REQUIREMENT. PENDING FINAL AGREEMENT, WE CONSIDER THAT WE WILL BE ABLE TO JUSTIFY CONTINUATION OF TRAINING IN PROGRESS, INCLUDING INTRODUCTION OF NEW STUDENTS INTO ONGOING PROGRAMS. HOWEVER, OUR AUTHORITY TO PROCEED IN ABSENCE OF AN AGREEMENT IS VERY LIMITED AND IT IS IMPERATIVE THAT AGREEMENTS BE OBTAINED ASAP IN ORDER TO AVOID PROGRAM DISRUPTION AND, POSSIBLE, LOSS OF AVAILABLE FUNDS AT END OF TRANSITION QUARTER.

D. THE NEW REQUIREMENT DOES NOT PROHIBIT TRAINING WHICH IS NOT RELATED TO U.S. FURNISHED DEFENSE ARTICLES. ACCORDINGLY, OTHER FORMS OF TRAINING (E.G., ACADEMIC COURSES) WILL CONTINUE AS SCHEDULED. NEVERTHELESS, IN IMPLEMENTING THE STATUTE, WE CAN AVOID SEVERAL DIFFICULTIES AND POSSIBLE MISUNDERSTANDINGS IF WE AVOID DISTINCTION BETWEEN EQUIPMENT RELATED TRAINING AND OTHER TRAINING. ACCORDINGLY, USG WILL SEEK TO OBTAIN AGREEMENT THAT THE

RECIPIENT WILL OBSERVE THE SAME CONDITIONS OF USE AND NON-TRANSFER FOR TRAINING AND SERVICES GENERALLY AS HAVE HERETOFORE BEEN REQUIRED BY U.S. LAW FOR DEFENSE ARTICLES.

4. THE NEW LEGISLATION ALSO REQUIRES THAT 30 DAYS PRIOR TO CONSENT BY THE UNITED STATES GOVERNMENT TO ANY SUCH PROPOSED TRANSFER, A REPORT BE SUBMITTED TO THE CONGRESS LISTING THE NAME OF THE COUNTRY PROPOSING TO MAKE THE TRANSFER, A DESCRIPTION OF THE DEFENSE ARTICLE OR RELATED TRAINING OR DEFENSE SERVICE AND ITS ORIGINAL ACQUISITION COST, THE NAME OF THE PROPOSED RECIPIENT, THE REASONS FOR THE PROPOSED TRANSFER, AND THE DATE ON WHICH THE TRANSFER IS PROPOSED TO BE MADE. THIS WRITTEN CERTIFICATION WILL BE UNCLASSIFIED, WITH THE POSSIBLE EXCEPTION OF THE VALUE AND NUMBER OF DEFENSE ARTICLES, OR RELATED TRAINING OR OTHER DEFENSE SERVICES.

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5. EXISTING MILITARY ASSISTANCE AGREEMENTS WITH EACH OF ADDRESSEES HOST GOVERNMENTS DIFFER SOMEWHAT FROM ONE ANOTHER IN SCOPE AND FORM. IN ORDER THAT NEW ELIGIBILITY REQUIREMENT EXPLAINED ABOVE MAY BE MET AS QUICKLY AS POSSIBLE, WE HAVE PREPARED DRAFT TEXTS OF NEW EXCHANGES OF NOTES ON SUBJECT KEYED TO SPECIAL CIRCUMSTANCES OF EXISTING AGREEMENTS. EACH ADDRESSEE IS REQUESTED TO NEGOTIATE AND CONCLUDE EXCHANGE OF NOTES WITH HOST GOVERNMENT ASAP USING TEXT PROVIDED BELOW. ANY SUBSTANTIVE CHANGES SHOULD BE REFERRED TO DEPARTMENT FOR APPROVAL PRIOR TO CONCLUDING EXCHANGE OF NOTES. WHEN NOTES EXCHANGED SIGNED ORIGINAL OF HOST GOVERNMENT NOTE AND CERTIFIED COPY EMBASSY NOTE SHOULD BE TRANSMITTED TO DEPARTMENT (L/T) PER 11 FAM 700. PLEASE NOTIFY DEPARTMENT (PM/SAS) BY TELEGRAM AS SOON AS NOTES EXCHANGED.

6. TEXT OF NOTES AND EXPLANATIONS ARE AS FOLLOWS:

7. FOR ADDIS ABABA, BANGKOK, LA PAZ, MANILA, SEOUL:

A. AGREEMENTS IN FORCE WITH ADDRESSEES' HOST GOVERNMENTS ALL EXPRESS AGREEMENT BY THE RECIPIENT TO OBSERVE RESTRICTIONS ON USE AND TRANSFER SET OUT IN SECTION 505(A) OF FAA WITH RESPECT TO "EQUIPMENT, MATERIEL AND SERVICES" FURNISHED BY USG. SINCE, UNTIL ENACTMENT OF THIS YEAR'S LEGISLATION, TRAINING WAS PROVIDED AS A "DEFENSE SERVICE" UNDER MAP, WE BELIEVE THESE EXISTING AGREEMENTS MAY BE CONSTRUED AS MEETING REQUIREMENTS OF NEW LEGISLATION. HOWEVER, IN ORDER TO GIVE EFFECT TO DESIRE OF CONGRESS THAT APPLICATION OF REQUIREMENTS TO TRAINING AND OTHER SERVICES BE EMPHASIZED, ADDRESSEES ARE REQUESTED TO SEEK CONFIRMATION, THAT HOST GOVERNMENTS CONSTRUE EXISTING AGREEMENTS AS APPLICABLE TO TRAINING FURNISHED UNDER NEW

FAA CHAPTER.

B. TEXT OF SUGGESTED NOTE FOLLOWS:

BEGIN TEXT: THE EMBASSY OF THE UNITED STATES OF AMERICA
PRESENTS ITS COMPLIMENTS TO THE (MINISTRY OF FOREIGN
AFFAIRS) OF THE GOVERNMENT OF AND HAS THE HONOR
TO REFER TO
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RECENTLY ENACTED PROVISIONS OF UNITED STATES LAW
AFFECTING ELIGIBILITY FOR U.S. MILITARY ASSISTANCE AND
TRAINING.

THE PROVISIONS OF THE INTERNATIONAL SECURITY ASSISTANCE
AND ARMS EXPORT CONTROL ACT OF 1976 ESTABLISH NEW

STATUTORY AUTHORITY FOR MILITARY EDUCATION AND TRAINING
WHICH HERETOFORE HAS BEEN FURNISHED BY THE UNITED STATES
GOVERNMENT AS A DEFENSE SERVICE UNDER ITS MILITARY
ASSISTANCE PROGRAM. IN ADDITION, THEY PROHIBIT THE
FURNISHING OF MILITARY ASSISTANCE OR RELATED TRAINING
UNLESS THE RECIPIENT COUNTRY AGREES THAT IT WILL OBSERVE
THE SAME CONDITIONS REGARDING TRAINING AND SERVICES AS
HAVE PREVIOUSLY BEEN REQUIRED WITH RESPECT TO DEFENSE
ARTICLES. THESE CONDITIONS ARE THAT, WITHOUT THE CONSENT
OF THE UNITED STATES GOVERNMENT, THE RECIPIENT COUNTRY
WILL NOT PERMIT THE USE OF SUCH ARTICLES, SERVICES, OR
TRAINING BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF
THAT COUNTRY; THAT IT WILL NOT TRANSFER OR PERMIT THEIR
TRANSFER BY GIFT, SALE, OR OTHERWISE; THAT IT WILL NOT
USE THEM OR PERMIT THEIR USE FOR PURPOSES OTHER THAN
THOSE FOR WHICH FURNISHED; THAT IT WILL MAINTAIN THEIR
SECURITY; THAT IT WILL PERMIT CONTINUOUS OBSERVATION AND
REVIEW BY UNITED STATES GOVERNMENT REPRESENTATIVES RE-
GARDING THEIR USE; AND THAT, UNLESS THE UNITED STATES
GOVERNMENT CONSENTS TO OTHER DISPOSITION, IT WILL RETURN
THEM TO THE UNITED STATES GOVERNMENT WHEN NO LONGER NEEDED.

THE AGREEMENT BETWEEN THE UNITED STATES GOVERNMENT AND
THE GOVERNMENT OF DATED CONTAINS THE
REQUISITE ASSURANCES WITH RESPECT TO DEFENSE ARTICLES
AND DEFENSE SERVICES FURNISHED TO THE GOVERNMENT OF
BY THE UNITED STATES GOVERNMENT. SINCE AT THE TIME THAT
AGREEMENT ENTERED INTO FORCE TRAINING WAS FURNISHED BY
THE UNITED STATES GOVERNMENT AS A DEFENSE SERVICE, THE
UNITED STATES GOVERNMENT INTERPRETS THE AGREEMENT AS
BEING APPLICABLE TO TRAINING NOW FURNISHED UNDER THE
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SEPARATE MILITARY EDUCATION AND TRAINING PROGRAM.
ACCORDINGLY, IT IS THE UNDERSTANDING OF THE UNITED STATES
GOVERNMENT THAT NO FURTHER AGREEMENT IS NECESSARY TO
IMPLEMENT THE NEWLY ENACTED PROVISIONS OF UNITED STATES
LAW DESCRIBED ABOVE.

THE EMBASSY WOULD APPRECIATE THE MINISTRY'S CONFIRM-
ATION THAT THE FOREGOING INTERPRETATION AND UNDERSTANDING
ALSO REPRESENT THE VIEWS OF THE GOVERNMENT OF

(COMPLIMENTARY CLOSE) END TEXT.

C. DATES OF RELEVANT AGREEMENTS ARE AS FOLLOWS:

COUNTRY	DATE	COVERAGE
1958 NOTES		AND DEFENSE SERVICES
A. BOLIVIA	MARCH 21 AND APRIL 22	DEFENSE ARTICLES
1958 NOTES		AND DEFENSE SERVICES

EQUIPMENT,
MATERIELS,
APRIL 26, 1962 (NOTES) OR SERVICES.

COUNTRY	DATE	COVERAGE
B. ETHIOPIA	MAY 22, 1953	EQUIPMENT, MATERIELS AND SERVICES.
C. KOREA	JANUARY 26, 1950	SAME.
D. PHILIPPINES	JUNE 26, 1953	SAME.
E. THAILAND	OCTOBER 17, 1950	SAME.

8. FOR COLOMBO, KABUL, KATHMANDU, CARACAS, MEXICO,
HELSINKI, VIENNA, KUALA LUMPUR AND NAIROBI:

A. PRIOR LAW DID NOT REQUIRE AS CONDITION OF ELIGIBILITY
FOR MAP TRAINING AND SERVICES, AS OPPOSED TO MAP DEFENSE
ARTICLES, THAT RECIPIENT AGREE TO CERTAIN TERMS AND
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CONDITIONS GOVERNING USE, TRANSFER, ETC. ADDRESSEE;S
HOST GOVERNMENTS ARE RECIPIENTS OF MAP TRAINING ONLY,
AND FOR THAT REASON SATISFACTION OF NEW STATUTORY
REQUIREMENT NECESSITATES CONCLUSION OF NEW AGREEMENTS
GOVERNING TRAINING AND SERVICES. ACCORDINGLY, ADDRESSEES
ARE REQUESTED TO SEEK SUCH AGREEMENT THROUGH EXCHANGE OF
NOTES ALONG LINES OF TEXT SET OUT BELOW.

B. TEXT OF SUGGESTED NOTE FOLLOWS:

BEGIN TEXT: THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE (MINISTRY OF FOREIGN AFFAIRS) OF THE GOVERNMENT OF AND HAS THE HONOR TO REFER TO RECENTLY ENACTED PROVISIONS OF UNITED STATES LAW AFFECTING ELIGIBILITY FOR U.S. MILITARY ASSISTANCE AND TRAINING.

THE PROVISIONS OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976 ESTABLISH NEW STATUTORY AUTHORITY FOR MILITARY EDUCATION AND TRAINING WHICH HERETOFORE HAS BEEN FURNISHED BY THE UNITED STATES GOVERNMENT AS A DEFENSE SERVICE UNDER ITS MILITARY ASSISTANCE PROGRAM. IN ADDITION, THEY PROHIBIT THE

FURNISHING OF SUCH TRAINING UNLESS THE RECIPIENT COUNTRY AGREES THAT IT WILL OBSERVE CERTAIN CONDITIONS REGARDING SUCH TRAINING. THESE CONDITIONS ARE THAT, WITHOUT THE CONSENT OF THE UNITED STATES GOVERNMENT, THE RECIPIENT COUNTRY WILL NOT PERMIT THE USE OF SUCH SERVICES OR TRAINING BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THAT COUNTRY; THAT IT WILL NOT TRANSFER OR PERMIT THEIR TRANSFER BY GIFT, SALE, OR OTHERWISE; THAT IT WILL NOT USE THEM OR PERMIT THEIR USE FOR PURPOSES OTHER THAN THOSE FOR WHICH FURNISHED; THAT IT WILL MAINTAIN THEIR SECURITY; THAT IT WILL PERMIT CONTINUOUS OBSERVATION AND REVIEW BY UNITED STATES GOVERNMENT REPRESENTATIVES REGARDING THEIR USE; AND THAT, UNLESS THE UNITED STATES GOVERNMENT CONSENTS TO OTHER DISPOSITION, IT WILL RETURN THEM TO THE UNITED STATES GOVERNMENT WHEN NO LONGER NEEDED.

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IN ORDER TO IMPLEMENT THIS LAW, AND TO PRESERVE THE ELIGIBILITY OF THE GOVERNMENT OF FOR MILITARY TRAINING THEREUNDER, IT IS PROPOSED THAT THE GOVERNMENT OF PROVIDE THE FOLLOWING ASSURANCES:

1. THAT IT WILL NOT, WITHOUT THE CONSENT OF THE UNITES STATES GOVERNMENT

A. PERMIT ANY USE OF SERVICES OR TRAINING, FURNISHED BY THE UNITED STATES GOVERNMENT BY ANYONE NOT AN OFFICER, EMPLOYEE, OR AGENT OF THE GOVERNMENT OF

B. TRANSFER OR PERMIT ANY OFFICER, EMPLOYEE, OR AGENT OF THE GOVERNMENT OF TO TRANSFER SUCH SERVICES OR TRAINING BY GIFT, SALE, OR OTHERWISE, OR

C. USE OR PERMIT THE USE OF SUCH SERVICES OR TRAINING FOR PURPOSE OTHER THAN THOSE FOR WHICH FURNISHED BY THE

UNITED STATES GOVERNMENT.

2. THAT IT WILL MAINTAIN THE SECURITY OF SUCH SERVICES OR TRAINING AS ARE FURNISHED BY THE UNITED STATES GOVERNMENT; AND WILL PROVIDE SUBSTANTIALLY THE SAME DEGREE OF SECURITY PROTECTION AFFORDED TO SUCH SERVICES OR TRAINING BY THE UNITED STATES GOVERNMENT.

3. THAT IT WILL, PERMIT CONTINUOUS OBSERVATION AND REVIEW BY, AND FURNISH NECESSARY INFORMATION TO, REPRESENTATIVES OF THE UNITED STATES GOVERNMENT WITH REGARD TO THE USE OF SUCH SERVICES OR TRAINING AND

4. THAT IT WILL RETURN TO THE UNITED STATES GOVERNMENT SUCH SERVICE OR TRAINING MATERIELS FURNISHED ON A GRANT BASIS AS ARE NO LONGER NEEDED FOR THE PURPOSES FOR WHICH FURNISHED, UNLESS THE UNITED STATES GOVERNMENT CONSENTS TO OTHER DISPOSITION.

IT IS FURTHER PROPOSED THAT THE MINISTRY'S REPLY STATING THAT THE FOREGOING IS ACCEPTABLE TO THE GOVERNMENT OF SHALL, TOGETHER WITH THIS NOTE, CONSTITUTE AN AGREEMENT BETWEEN THE GOVERNMENTS ON THIS UNCLASSIFIED

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SUBJECT, TO BE EFFECTIVE FROM THE DATE OF THE MINISTRY'S NOTE IN REPLY.

(COMPLIMENTARY CLOSE) HABIB

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<< END OF DOCUMENT >>

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